



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                 |                                    |
|-----------------|------------------------------------|
| Applicant:      | Rhodes et al.                      |
| Title:          | Ethernet-Based Fire System Network |
| Serial No.      | 10/601,129                         |
| Filing Date:    | In Dispute                         |
| Group Art Unit: | 2154                               |
| Docket No.      | 1867-0025                          |

PETITION FOR CORRECTION OF FILING DATE

Applicant hereby petitions the Commissioner of Patents and Trademarks for the correction of the filing date of the above-referenced application (the "Application") to June 20, 2003. The filing date accorded to the Application by the United States Receiving Office is currently June 23, 2003.

The basis for the Petition is as follows. The Applicant's attorney filed all of the papers necessary to secure a filing date on June 20, 2003. Through an error of the United States Postal Service, the application papers received an incorrect "date-in" designation that is unclear, and appears to be June 30, 2003. Applicant can prove that the application papers were deposited with the Express Mail in a manner consistent with the regulations of the United States Patent and Trademark Office on June 20, 2003. Accordingly, the above-referenced application was filed with the United States Patent and Trademark Office on June 20, 2003, and should receive a filing date of June 20, 2003.

## Factual Background

In June, 2003, Applicant's attorney (hereinafter "Applicant") worked with others to prepare the subject patent application consisting of a 27 page specification including 5 pages of claims, 6 pages of drawings, and a 1 page Abstract (the "application papers"). Applicant filed the application papers by depositing the application with the United States Postal Service using the Express Mail service on June 20, 2003. In particular, Applicant presented the application papers *in person* to an employee at the United States Postal Service at the branch located at 2760 Fortune Circle East, Indianapolis IN, on June 20, 2003. (See Exh. A, "Declaration of Harold C. Moore"; Exh. B, Copy of Transmittal Letter bearing Certification of Mailing by Express Mail Transmittal Letter). Through an error of the Post Office, the application papers were given a "date-in" designation that appears to be June 30, 2003 at 10:40 pm (See Exh. B; and Exh. C., copy of "Express Mail" Mailing Label No. EV162786681US).

The Post Office error may be corroborated by a number of documents. For example, the Patent Office received and accorded a filing date of June 23, 2003, which is a full *seven days before the date-in in the Express Mail Receipt*. Because the Post Office delivered the application papers a full week before the "date-in" designation, it is clear that the June 30, 2003 "date-in" designation on the Express Mail receipt is incorrect. (See Exh. B, copy of Transmittal Letter with docketing entry; Exh. D, Official Filing Receipt).

Even more conclusively, the United States Postal Service posted a charge for the Express Mail label EV162786681US on June 20, 2003. (See Exhibit E, Copy of Express Mail Corporate Account Mailing Statement). This posting of the charge conclusively

proves that the application papers were deposited and “dated-in” officially by the United States Postal Service on June 20, 2003.

As a consequence, the United States Patent and Trademark Office accorded the Application a filing date of June 23, 2002, presumably due to the incorrect “date-in” designation.

### Argument

According to the practice of the United States Patent and Trademark Office, application papers are “received” by the United States Patent and Trademark Office (for the purposes of obtaining a filing date) on the day on which appropriate application papers are deposited with the United States Post Office using the Express Mail Post Office to Addressee service, provided that the application papers are so deposited within the rules set forth in 37 C.F.R. § 1.10.

Accordingly, Applicant requests the correction of the filing date in accordance with the 37 C.F.R. § 1.10(d). Applicant sets forth below the showings required by 37 C.F.R. § 1.10 (d).

### 37 U.S.C. § 1.10(d)(1)

**“The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS.**

The office of Applicant’s attorney received the Official Filing Receipt notifying Applicant of the erroneous June 23, 2003 filing date on September 18, 2003. Applicant’s attorney sought approval from the client to pursue correcting the filing receipt, and

immediately investigated the circumstances including obtaining the Exhibits attached hereto.

Applicant has filed this Petition on October 16, 2002. It is respectfully submitted that Applicant has promptly filed this Petition upon becoming aware of the incorrect entry by the U.S.P.S.

**37 U.S.C. § 1.10(d)(2)**

**“The number of the “Express Mail” mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by Express Mail”**

As shown in Exhibit B, the Express Mail No. EV162786681US was placed on the transmittal papers before mailing. Any question regarding this fact may be confirmed by review of the original copy of the transmittal letter for the Application, which is in the possession of the United States Patent and Trademark Office. However, Exhibit B constitutes a true and correct copy of that transmittal letter and clearly shows the Express Mail number.

**37 U.S.C. § 1.10(d)(3)**

**“The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date correspondence was deposited in the “Express Mail Post Office to Addressee” service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one Business day of the deposit of the correspondence in the “Express Mail Post Office to Addressee” service of the USPS.”**

The application papers were deposited *in person* on June 20, 2003, contrary to the apparent “date-in” on the Express Mail receipt. Exhibit A consists of an affidavit of Harold C. Moore that establishes that the application papers were filed using the “Express Mail Post Office to Addressee” service and were personally accepted and “dated-in” by a United States Post Office employee on June 20, 2003. While the “date-in” indicated on the Express Mail receipt appears to read June 30, 2003, it is either a poorly written “date-in” of June 20, 2003, or a mistake of the United States Post Office employee.

1. Corroboration of June 20, 2003 Deposit

As an initial matter, it is plain that the application papers were *not* deposited with the United States Post Office on June 30, 2003, as otherwise indicated by the Express Mail receipt. To this end, the filing date accorded by the United States Patent and Trademark Office confirms that the application papers must have been deposited before June 23, 2003. Accordingly, the Official Filing Receipt, attached hereto as Exhibit D, constitutes corroboration, at a minimum, that the June 30, 2003 “date-in” on the Express Mail receipt is in error.

More importantly, the official Express Mail Corporate Account Mailing Statement attached hereto as Exhibit E plainly corroborates that the application papers were received and entered into the U.S.P.S. Express Mail system on June 20, 2003.

Accordingly, the evidence is overwhelming that the “date-in” provided by the United States Postal Service on the application papers is incorrect. Such evidence is corroborated not only by documentation generated *well before* the actual “date-in”, but also by documentation generated by the United States Postal System itself. Moreover,

the written documentation *of the U.S.P.S* corroborates Mr. Moore's Declaration in Exhibit A. (See Exh. E).

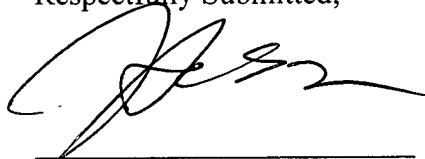
It is respectfully submitted that the above constitutes sufficient corroboration that the document was timely filed on *June 20, 2003* in accordance with 37 C.F.R. § 1.10(d)(3).

For all the foregoing reasons, it is respectfully submitted that the "date-in" notation provided by the USPS on Express Mail No. EV162786681US was incorrect and should have read June 20, 2003.

Conclusion

For all the foregoing reasons, it is respectfully submitted that the Application referenced above was filed in the United States Patent and Trademark Office on June 20, 2003. As a result, the filing date of the Application should be accorded a corrected filing date of June 20, 2003.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'H. C. Moore', written over a horizontal line.

Harold C. Moore  
Magainot, Moore & Beck  
Bank One Center/Tower  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5115  
(317) 638-2922

EXHIBIT A



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

|                 |                                    |
|-----------------|------------------------------------|
| Applicant:      | Rhodes et al.                      |
| Title:          | Ethernet-Based Fire System Network |
| Serial No.      | 10/601,129                         |
| Filing Date:    | In Dispute                         |
| Group Art Unit: | 2154                               |
| Docket No.      | 1867-0025                          |

DECLARATION OF HAROLD C. MOORE

1. I assisted in preparing a United States Patent Application entitled  
ETHERNET-BASED FIRE SYSTEM NETWORK including twenty-seven pages of  
specification (five pages of claims), an abstract, six sheets of informal drawings, and a  
Transmittal Letter (hereinafter "application papers");
2. I personally deposited the application papers in the United States Postal  
Service "Park Fletcher Branch" at 2760 Fortune Circle East, Indianapolis IN on June 20,  
2003, using the Express Mail Post Office to Addressee service of the United States Postal  
Service;
3. I personally witnessed the United States Postal Service employee perform  
the "date-in" procedure on June 20, 2003; and
4. The application papers were marked with the Express Mail No.  
EV162786681 prior to deposit with the United States Postal Service.



I hereby declare that all statements made herein of my own knowledge are true,  
and that all statements made on information and belief are believed to be true; and  
further, that these statements are made with the knowledge that willful false statements,  
and the like so made, are punishable by fine or imprisonment, or both, under Section  
1001, Title 18 of the United States Code.

A handwritten signature in black ink, appearing to read 'H. Moore', written over a horizontal line.

Harold C. Moore  
Maginot, Moore & Beck  
Bank One Center/Tower  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5130  
(317) 638-2922



EXHIBIT B

PATENT APPLICATION TRANSMITTAL LETTER

Mail Stop Patent Application  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

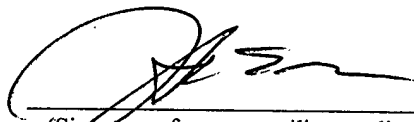
Sir:

Transmitted herewith for filing is the patent application of: Neil Rhodes and Tom Rule  
MMB Docket No. 1867-0025  
Siemens Docket No.

"Express mail" mailing label number EV162786681US Date of Deposit June 20, 2003

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to Mail Stop PATENT APPLICATION, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Harold C. Moore  
(Name of person mailing application)

  
(Signature of person mailing application)

For: **Ethernet-Based Fire System Network**

Enclosed are also:

- \* Patent Application (27 pages of text including 5 pages of claims)
- \* Six (6) Pages of Informal Drawings
- \* 1 page Abstract
- \* One Return Postcard

Please address correspondence to:

Harold C. Moore  
Maginot, Moore & Bowman  
Bank One Center/Tower  
111 Monument Circle, Suite 3000  
Indianapolis, Indiana 46204-5115

Applicant(s): Rhodes  
Attorney Docket No. 1867-0025



CLAIMS AS FILED

|                           | Number |  | Number |       |          |
|---------------------------|--------|--|--------|-------|----------|
| For                       | Filed  |  | Extra  | Rate  | Fee      |
| -----                     |        |  |        |       |          |
| --                        |        |  |        |       |          |
| Basic Fee                 |        |  |        |       | \$750.00 |
| Total Claims              | 20     |  | 0      | \$ 18 | \$ 0.00  |
| Independent Claims        | 3      |  | 0      | \$ 84 | \$ 0.00  |
| Multiple Dependent Claims | any    |  |        | \$280 | \$ 0.00  |
| -----                     |        |  |        |       |          |
| Total Filing Fee          |        |  |        |       | \$750.00 |

\* Payment of the fees are deferred at this time.

Respectfully submitted,

MAGINOT, MOORE & BOWMAN

Harold C. Moore  
Attorney for Applicant  
Registration No. 37,892

June 20, 2003

## EXHIBIT C



**Customer Copy**  
Label 11-F June 2002



EV 162786681 US



UNITED STATES POSTAL SERVICE®

Post Office To Addressee

## ORIGIN (POSTAL USE ONLY)

|  |   |  |
|--|---|--|
| ZIP Code<br>18101  | Day of Delivery<br><input type="checkbox"/> Next <input checked="" type="checkbox"/> Second | Flat Rate Envelope<br><input type="checkbox"/> |
| Date In<br>Mo. Day Year<br>8 20 2003   | <input checked="" type="checkbox"/> 12 Noon <input type="checkbox"/> 3 PM                   | Postage<br>\$                                  |
| Time In<br>Mo. Day Year<br>8 20 2003   | Military<br><input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day               | Return Receipt Fee                             |
| <input type="checkbox"/> AM <input type="checkbox"/> PM                          | Int'l Alpha Country Code  | COD Fee  |
| Weight<br>1.0 lbs. ozs.  | Acceptance Clerk Initials<br>✓  | Insurance Fee                                  |
| No Delivery<br><input type="checkbox"/> Weekend <input type="checkbox"/> Holiday |   | Total Postage & Fees<br>\$ 13.65               |

## DELIVERY (POSTAL USE ONLY)

|  |   |   |
|--|---|---|
| Delivery Attempt<br>Mo. Day<br>8 20  | Time<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Employee Signature<br>JUN 20 2003             |
| Delivery Attempt<br>Mo. Day<br>8 20  | Time<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Employee Signature<br>MAGINOT, MOORE & BOWMAN |
| Delivery Date<br>Mo. Day<br>8 20   | Time<br><input type="checkbox"/> AM <input type="checkbox"/> PM | Employee Signature                            |
| <input type="checkbox"/> <b>WAIVER OF SIGNATURE (Domestic Only)</b> Additional merchandise insurance is void if waiver of signature is requested. I wish delivery to be made without obtaining signature of addressee or addressee's agent (if delivery employee judges that article can be left in secure location) and I authorize that delivery employee's signature constitutes valid proof of delivery. |   |   |
| <b>NO DELIVERY</b> <input type="checkbox"/> Weekend <input type="checkbox"/> Holiday   |   |   |

## CUSTOMER USE ONLY

## METHOD OF PAYMENT:

Express Mail Corporate Acct. No.

3406101

Federal Agency Acct. No. or  
Postal Service Acct. No.

FROM: (PLEASE PRINT)

PHONE ( )

181 7-0001

181 7-0001  
181 7-0001  
181 7-0001  
181 7-0001

181 7-0001

TO: (PLEASE PRINT)

PHONE ( )

Mail Stop Patent Application  
Commissioner for Patent  
P.O. Box 4430  
Alexandria VA 22314-4430

PRESS HARD.

You are making 3 copies.

FOR PICKUP OR TRACKING CALL 1-800-222-1811 WWW.USPS.COM



EXHIBIT E



UNITED STATES POSTAL SERVICE®

EXPRESS MAIL CORPORATE ACCOUNT  
MAILING STATEMENT

PAGE:

1

ACCOUNT NO: 462933

PERIOD: 06/14/03 - 07/11/03

| DATE                       | CHARGE<br>BACK | LABEL<br>NUMBER | ORIG<br>ZIP | DEST<br>ZIP | ADJ #<br>REF * | POSTAGE  | FEES   |          | DEPOSITS | WITH-<br>DRAWALS | CDA<br>LEG |
|----------------------------|----------------|-----------------|-------------|-------------|----------------|----------|--------|----------|----------|------------------|------------|
|                            |                |                 |             |             |                |          | PICKUP | DELIVERY |          |                  |            |
| BEGINNING BALANCE:         |                |                 |             |             |                | 1,272.25 |        |          |          |                  |            |
| 06/13/03                   |                | EV096473954US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/13/03                   |                | EV162785774US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/17/03                   |                | EV162785788US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/17/03                   |                | EV162785814US ✓ | 46251       | 22313       |                | 17.85    |        |          |          |                  |            |
| 06/17/03                   |                | EV162785876US ✓ | 46241       | 22313       |                | 24.20    |        |          |          |                  |            |
| 06/17/03                   |                | EV162785880US ✓ | 46241       | 22313       |                | 21.05    |        |          |          |                  |            |
| 06/17/03                   |                | EV162785947US ✓ | 46241       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/17/03                   |                | EV162785981US ✓ | 46241       | 22313       |                | 24.20    |        |          |          |                  |            |
| 06/20/03                   |                | EV162786681US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/24/03                   |                | EV162785902US ✓ | 46251       | 22313       |                | 17.85    |        |          |          |                  |            |
| 06/24/03                   |                | EV162785933US ✓ | 46251       | 22313       |                | 17.85    |        |          |          |                  |            |
| 06/27/03                   |                | EV162785757US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/30/03                   |                | EV162784941US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 06/30/03                   |                | EV162785765US ✓ | 46251       | 22313       |                | 21.05    |        |          |          |                  |            |
| 06/30/03                   |                | EV162785805US ✓ | 46251       | 22213       |                | 13.65    |        |          |          |                  |            |
| 06/30/03                   |                | EV162785828US ✓ | 46251       | 22313       |                | 17.85    |        |          |          |                  |            |
| 07/01/03                   |                | EV162786528US ✓ | 46251       | 22313       |                | 13.65    |        |          |          |                  |            |
| 07/07/03                   |                | EV162786514US ✓ | 46204       | 22313       |                | 24.20    |        |          |          |                  |            |
| 07/11/03                   |                | EV162786655US ✓ | 46204       | 22313       |                | 44.80    |        |          |          |                  |            |
| SUB-TOTAL:                 |                |                 |             |             |                | 353.75   |        |          |          |                  |            |
| (A) TOTAL CHARGES :        |                |                 |             |             |                | 353.75   | 0.00   | 0.00     |          |                  |            |
| (B) TOTAL ADJUSTMENTS (#): |                |                 |             |             |                | 0.00     | 0.00   | 0.00     |          |                  |            |
| (C) TOTAL REFUNDS (*):     |                |                 |             |             |                | 0.00     | 0.00   | 0.00     |          |                  |            |
| TOTAL (A + B - C):         |                |                 |             |             |                | 353.75   | 0.00   | 0.00     |          |                  |            |
| 07/09/03                   |                | DEPOSIT         |             |             |                |          |        |          | 350.00   |                  |            |
| ENDING BALANCE:            |                |                 |             |             |                | 1,268.50 |        |          |          |                  |            |